IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY
WRIT PETITION NO : 9847 of 2004

Between:
D.V. Raghu Varma, S/o D. Gopal,
Chairman the Srikalahasthi Cooperative Town Bank Ltd., Srikalahasthi,
Chittoor District .

..... PETITIONER

AND

1 The District Cooperative Officer, Chittoor, Chittoor District.
2 The Deputy Registrar of Cooperative Societies, Tirupathi.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein, the High Court will be pleased to issue a Writ, order or direction in the nature of Writ of Mandamus/under Art.226 of the Constitution of India, declaring the action of the Respondent No.2 in issuing Rc. No. 1111/2002.D 3-6-2004, which was served on the petitioner on 08-06-2004, as illegal and arbitrary violation of principles of natural justice and contrary to the Section 60(1) Proviso and set a side the same

For the Petitioner:MR.V.SUDHAKAR REDDY ,Advocate.

For the Respondents: G.P. FOR COOPERATION .

The Court Made the Following ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the 2nd respondent on the ground that though by virtue of the proceedings dated 3.6.2004, which is in the nature of a show cause notice, it is proposed to proceed against the petitioner under Section 60(1) of the A.P.Cooperative Societies Act (for short 'the Act'), but,

however, the 2nd respondent has even before receiving the explanation of the petitioner, fixed the date of enquiry as 17.06.2004.

2. The petitioner submits that the impugned notice itself was served on him only on 08-06-2004 and he has got ten days time for filing his counter/explanation, which expires by 18.06.2004, and, therefore, before that date, fixing a date for enquiry itself is illegal.

3. The learned counsel for the petitioner contended that fixing of the date of enquiry on 17.06.2004 in the impugned notice itself is illegal and without jurisdiction, and in fact, according to the learned counsel after the explanation received by the 2nd respondent, the 2nd respondent has to consider the same and decide whether any enquiry is required or not, and then only the authorities have to fix a date for enquiry, and not until the receipt of the explanation of the petitioner. Therefore, the learned counsel sought for quashing of the impugned notice.

4. Heard the learned counsel for the petitioner and considered the material on record.

5. A perusal of the impugned notice dated 03.06.2004, it is clear that it is a show cause notice proposing to take action against the petitioner under Sec.60(1) of the Act. The petitioner has given ten days time for filing his explanation. According to the petitioner, as the impugned notice was served on him on 08.06.2004, he has got time till 18.06.2004 to file his explanation, and therefore, according to the petitioner, the 2nd respondent ought to have fixed the date of enquiry only after taking a decision after receiving his explanation and not along with the show cause notice. Hence, to that extent the petitioner sought to quash the impugned notice. A perusal of the impugned notice, no doubt, shows that the explanation of the petitioner was called for in order to proceed under Sec.60(1) of the Act. Therefore, it is proper for the 2nd respondent to fix up the enquiry only after the receipt of the explanation of the

petitioner, and after considering the same to hold enquiry, and fixing the date of enquiry in the show cause notice itself is not legal. Accordingly, the 2nd respondent is directed to receive the explanation of the petitioner, consider the same, and decide whether any enquiry is required or not and if the 2nd respondent decides to hold any enquiry, then only he has to issue a notice fixing up a date for enquiry and proceed with the same according to law.

6. The writ petition is accordingly disposed of with the above observations and directions.

17th June, 2004 ASSISTANT REGISTRAR.

// TRUE COOPY//

SECTION OFFICER.

To

1. The District Cooperative Officer,
   Chittoor, Chittoor District.

2. The Deputy Registrar of Cooperative
   Societies, Tirupati.

3. The Government Pleader for Cooperation.

4. Two C.D. copies.